The IDEA and Charter Schools

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What are charter schools?

Many parents, hoping to increase school accountability and improve school services for their children, are turning to charter schools. Public charter schools are public schools that are created by an agreement (charter) between the group founding the school and an authorizing agency, like a county or state school board. The authorizing agency must have the legal authority under state law to approve the charter. According to the special report *Charter Schools Designed for Children Disabilities: An Initial Examination of Issues and Questions Raised*, at least forty states, the District of Columbia, and Puerto Rico have adopted laws authorizing charter schools. Charter schools are generally authorized for a set period of time, usually three to five years. The authorizing agency usually has some responsibility to oversee the charter school and that oversight is often linked to the charter school having its charter renewed. Charter schools under federal law must be non profits and since they are public schools, they may not charge tuition. (see *What are some typical characteristics of charter schools? Primers on Implementing Special Education in Charter Schools*).

What about the IDEA, Section 504, and the ADA?

Public charter schools may be exempt from some state or local laws or requirements, but charter schools must comply with the IDEA and may not discriminate against qualified persons with disabilities. The IDEA specifically states that children with disabilities and their parents retain all of their rights under Part B of the IDEA. And, since public charter schools receive public funding they are public agencies that must comply with Section 504 and the Americans with Disabilities Act (ADA). While charter schools may not deny admission to a student based on the student's disability, charter schools may establish minimum eligibility criteria for admssion. Under 504 and the ADA a student with a disability would be entitled to reasonable accommodations and modifications to meet that criteria. Similarly, a charter school could require that students have completed certain subjects, if the charter school specializes in a specific area of study.

While charter schools must comply with the IDEA, Section 504, and the ADA, there is a tension between these federal laws and the independant and autonomous nature of charter schools. Thus, tracking responsibility for ensuring charter school compliance with federal special education law can be confusing. Charter schools may be licensed by a school district and operate just like any other public school in the district. In that circumstance, under the IDEA, the school district is the local education agency (LEA) and has the overall responsibility to ensure that the charter school complies with the IDEA, 504, and the ADA. If a parent believed the charter school was not complying with federal law, the parent could complain to the school district.

But, in some circumstances, the charter school may be its own school district and, for IDEA purposes, be the local education agency (LEA). For example, the state board of education may have granted the school it's charter and the charter school is the local education agency and is not under the direction of a school district. If the charter school is the local education agency, then the charter school is responsible for all aspects of providing special education to its students with disabilities (see ERIC Digest: Public Charter Schools and Students with Disabilities). Of course, under the IDEA, the state education agency (SEA) is responsible for ensuring that all students with disabilities in a state receive a free appropriate public education. So, when in doubt as to the responsible agency for ensuring that a charter school or school district complies with the IDEA, you can always contact your state education agency. If there are concerns about compliance with Section 504 and the ADA, you can contact the Office for Civil Rights.